

FILE



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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

ROBERT R. DE LUCA  
CLERK, U.S. DIST. CT.  
W.D. OF TN, MEMPHIS

BRIGITTE FLACK,

Plaintiff,

v.

JO ANNE B. BARNHART,  
Commissioner of the Social  
Security Administration,

Defendant.

Civil No. 04-2455

ORDER OF REMAND

Pursuant to the power of this court to enter a judgment affirming, modifying, or reversing the Commissioner's decision with remand in Social Security actions under sentence four of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), and in light of the Commissioner's motion to remand this action, this case is hereby remanded pursuant to sentence four of 42 U.S.C. § 405(g). Upon remand, the administrative law judge ("ALJ") will issue a new decision and do the following:

1. Reconcile the difference between Dr. Cole's findings and his residual functional capacity finding;

2. Re-evaluate the opinion of Dr. Baker, Plaintiff's treating psychiatrist, citing to specific evidence of record to support his opinion regarding the weight to be given to Dr. Baker's opinion. If the ALJ believes that Dr. Baker has not properly interpreted the meaning of the word "marked" in his findings, he should recontact him and clarify this issue. See 20 C.F.R. § 416.912(e). Even if Dr. Baker's opinion is not entitled to controlling weight, the ALJ should consider what weight the opinion is entitled to using the factors contained in 20 C.F.R. § 416.927;

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3. The ALJ will update the record by requesting the treating and examining sources, including Drs. Cole and Baker, submit additional evidence and further clarification of their opinions, including medical source statements, about what Plaintiff can still do despite her impairments;


4. The ALJ will further evaluate Plaintiff's mental impairments in accordance with 20 C.F.R. § 416.920a and provide sufficient rationale for the findings made in his decision, and in so doing, he should further evaluate all of the evidence of record;

5. The ALJ will obtain evidence from a medical expert to clarify the nature and severity of Plaintiff's impairments;

6. The ALJ will obtain testimony from a vocational expert.

Based on the foregoing, this Court hereby enters a judgment reversing the decision of the ALJ and remanding this case to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g). See Melkonyan v. Sullivan, 501 U.S. 89, 111 S.Ct. 2157 (1991); Shalala v. Schaefer, 509 U.S. 292, 113 S.Ct. 2625 (1993). Upon remand, the Commissioner shall take action consistent with this order.

SO ORDERED this 24 day of April, 2005.

  
BERNICE B. DONALD  
UNITED STATES DISTRICT COURT JUDGE

CONSENTED TO AND APPROVED BY:

Lester Wener  
LESTER WENER  
Attorney for Plaintiff *By JAD*  
100 N. Main Building, Suite 1234 *By consent*  
Memphis, Tennessee 38103

TERRELL L. HARRIS  
United States Attorney

By Joe A. Dycus  
Joe A. Dycus (#008730 Tennessee)  
Assistant United States Attorney  
167 N. Main Street, 8th Floor  
Memphis, Tennessee 38103  
(901) 544-4231



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Joe A. Dycus  
U.S. ATTORNEY'S OFFICE  
167 N. Main St.  
Ste. 800  
Memphis, TN 38103

Lester T. Wener  
MCWHORTER & WENER  
100 N. Main Street  
Ste. 1234  
Memphis, TN 38103

Honorable Bernice Donald  
US DISTRICT COURT